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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HARRY SNYDER, RICHARD CULLEN, and
BRUCE E. ARNOLD, JR.

Appeal 2009-006548
Application 10/758,984¹
Technology Center 2100

Before JOHN A. JEFFERY, JAY P. LUCAS, and JAMES R. HUGHES,
Administrative Patent Judges.

LUCAS, *Administrative Patent Judge.*

DECISION ON APPEAL²

¹ Application filed January 16, 2004. Appellants claim the benefit under 35 U.S.C. § 119 of provisional application 60/440,830, filed January 17, 2003. The real party in interest is Siemens Medical Solutions USA Inc.

² The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants appeal from a final rejection of claims 1 to 19 under authority of 35 U.S.C. § 134(a). The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b).

We affirm the rejections.

Appellants' invention relates to an information system that manages user access to an application hosted by an application service provider ("ASP"). (*See* claim 1.) In the words of Appellants:

[T]he system restricts access so that customer account administrators [*e.g.*, managers for a hospital organization] have no access to user accounts assigned to other organizations [*e.g.*, other hospitals within the system], preferably by adding a prefix representing the parent organization in order to establish uniqueness.

(Spec. 3, ll. 1 to 4).

[Visual Basic] scripts ... operat[ing] on the Active Directory ... enforce a user naming standard HHRR prefix ensuring uniqueness of duplicate names amongst many hospitals. For example, "Joe Smith" at Hospital A can be resolved and distinguished from "Joe Smith" at Hospital B.

When a system administrator creates a logon name for a user account for the first time, the system administrator adds a hospital code prefix to the logon name. The prefix represents a hospital region code associated with a particular hospital or health care organization. The prefix ensures uniqueness of a logon name because Microsoft ®

Active Directory ® domain accounts cannot have duplicate logon names.

(Spec. 14, ll. 12 to 20).

The following illustrates the claims:

Claim 1:

1. A system enabling individual organizations of a plurality of different organizations to manage access of their own respective employees to at least one remotely located application hosted by an application service provider, comprising:
at an application service provider site,

at least one database containing data representing,

a plurality of user interface images associated with corresponding plurality of organizations, and

a plurality of executable procedures associated with the corresponding plurality of user interface images, an executable procedure supporting a user of a particular organization of said plurality of organizations in managing access of employees of the particular organization to an application hosted by an application service provider and used by said plurality of organizations; and

a command processor employing the at least one database for initiating execution of a particular executable procedure in response to a command initiated at a remote location associated with the particular organization using a particular organization, the particular executable procedure

supporting the user in managing and granting access of an employee of the particular organization to an application and associated application data specific to said particular organization without intervention by the application service provider and excluding access to said application data specific to said particular organization by employees of organizations other than said particular organization.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Llewellyn	US 2003/0061279 A1	Mar. 27, 2003 (filed May 14, 2002)
Gavrila	US 2002/0026592 A1	Feb. 28, 2002

REJECTIONS

The Examiner rejects the claims as follows:

R1: Claims 1 to 3, 7, and 10 to 19 stand rejected under 35 U.S.C. § 102(e) for being anticipated by Llewellyn.

R2: Claims 4 to 6, 8, and 9 stand rejected under 35 U.S.C. § 103(a) for being obvious over Llewellyn in view of Gavrila.

We will review the rejections in the order argued and as grouped in the Briefs. Arguments Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE

The issue is whether Appellants have shown that the Examiner erred in rejecting the claims under 35 U.S.C. §§ 102(e) and 103(a). The issue under § 102(e) specifically turns on whether the Llewellyn reference teaches Appellants' claim limitations "granting access ... to said application ... without intervention by the application service provider" (claim 1) and "excluding access to said application data specific to said particular organization by employees of organizations other than said particular organization" (claim 1).

FINDINGS OF FACT

The record supports the following findings of fact (FF) by a preponderance of the evidence.

Disclosure

1. Appellants have invented a system for controlling access to an application via an application service provider ("ASP"). (*See* claim 1; Spec. 2, ll. 23 to 25.) The disclosure says that the ASP may be "a party" (*see* Spec. 5, ll. 10 to 12) or something (*i.e.*, a network of devices) that "host[s]" a client application (*id.* at 12, ll. 10 to 12; Fig. 1). In a first instance (*i.e.*, when a particular user is originally granted access to Appellants' system), the Specification discloses that an administrator (*i.e.*, a human) determines which system parts a new user can access (*id.* at 18, ll. 7 to 10; 19, ll. 11 to 16; 21, ll. 15 to 17). After the administrator first determines a particular user's access rights, the system requires no further human intervention (*id.* at 18, ll. 7 to 10; 3, ll. 4 to 6; 31, ll. 10 to 14).

Llewellyn

2. The Llewellyn reference teaches a system for controlling access to an application via an application service provider (“ASP”) (§ [0078]). The patent application publication says that the ASP “hosts” a client application (*id.*). In a first instance (*i.e.*, when a user is originally granted access to Llewellyn’s system), Llewellyn discloses that an administrator specifies which system parts are accessible to the user (§ [0109]). After the administrator first specifies a particular user’s access level, Llewellyn’s system requires no further administrator intervention. (*See* §§ [0176] and [0177].) Llewellyn further teaches “permissions” (*i.e.*, that the user’s access level allows access to certain application features while excluding the user from other features via a server initialization module) (§ [0109]).

PRINCIPLE OF LAW

Appellants have the burden on appeal to the Board to demonstrate Examiner error. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006).

ANALYSIS

*Arguments with respect to the rejection
of claims 1 to 3, 7, and 10 to 19
under 35 U.S.C. § 102(e) [R1]*

The Examiner rejected the above-noted claims as being anticipated by the Llewellyn reference, pages 3 to 23. Appellants argue Llewellyn fails to teach Appellants’ claim limitation “granting access ... to said application ... without intervention by the application service provider” (claim 1) (App. Br. 8, middle to bottom).

We disagree with Appellants' argument. We find that Appellants have invented a system for controlling access to an application via an application service provider ("ASP") (FF#1). The disclosure says that the ASP may be someone (*i.e.*, "a party," a business entity, or a human) or something (*i.e.*, a network of devices) that "host[s]" a client application (*id.*). In a first instance (*i.e.*, when a particular user is originally granted access to Appellants' system), the Specification discloses that an administrator (*i.e.*, a human) determines which system parts a new user can access (*id.*). After the administrator first determines a particular user's access rights, the system requires no further human intervention (*id.*).

In comparison, the Llewellyn reference teaches a system for controlling access to an application via an application service provider ("ASP") (FF#2). The patent application publication says that the ASP "hosts" a client application (*id.*). In a first instance (*i.e.*, when a user is originally granted access to Llewellyn's system), Llewellyn discloses that an administrator (*i.e.*, a human) specifies which system parts are accessible to the user (*id.*). After the administrator first specifies a particular user's access level, Llewellyn's system requires no further administrator intervention (*id.*). Llewellyn further discloses that the user's access level allows access to certain application features while excluding the user from other features via a server initialization module (*id.*).

Interpreting Appellants' claim phrase "without intervention" to mean that the claimed "application service provider" is "not in communication with" the claimed "application" would render claim 1 internally inconsistent with the access mentioned in the previous limitation. We thus find that Appellants' claim limitation "granting access ... without intervention by the

application service provider” is no different from Llewellyn’s teachings of a server initialization module negotiating access to a client after the first instance when an administrator sets permissions for the user of a client module.

Appellants then argue that Llewellyn teaches away from the claimed invention (App. Br. 9, bottom). More particularly, Appellants argue that the claimed “without intervention” is not taught because the reference teaches that an “‘administrator of a server station’ is an [ASP] administrator” and it is “the administrator [who] controls the operations ... [in] Llewellyn.” (*Id.*). In essence, Appellants’ argument is that any human intervention in granting access teaches away from “granting access ... to said application ... without intervention,” as required in claim 1. (*See id.*)

Appellants disclose a human administrator granting access for a particular user account by adding a prefix to the account when first created. (*See* FF#1 and FF#2.) Thus, in light of the Specification (*see In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993)), we do not construe the recited “without intervention” as precluding all human intervention (*id.*).

Appellants further argue Llewellyn fails to teach Appellants’ claim limitation “excluding access ... to said particular organization by employees of organizations other than said particular organization” (claim 1) (App. Br. 8, middle to bottom).

We find unconvincing Appellants’ argument that the “excluding” limitation of claim 1 is not taught in Llewellyn. As noted above, we find that Appellants’ claimed system allows a “particular user,” as claimed, access to certain application features while excluding the “particular user” from other features (FF#1). In comparison, we find that Llewellyn teaches

“permissions” (*i.e.*, that a user’s access level allows access to certain application features while excluding the particular user from other features) (FF#2; *e.g.*, Llewellyn ¶ [0109] at ll. 3 to 4). We thus find that Appellants’ “excluding” step (claim 1) reads on Llewellyn’s teachings for “permissions.”

For all of the above-stated reasons, Appellants have not demonstrated error in the rejection R1 of claim 1.

Appellants have separately argued dependent claims 3, 12, and 16 to 19 in accordance with 37 C.F.R. § 41.37(c)(1)(vii). Appellants argue, for example, that Llewellyn fails to teach the claimed “processor” that “excludes access” (Brief 11, bottom to 12); Llewellyn fails to teach the claimed “prevent[ing] replication of user identification information” of claim 12 (Brief 12, middle); and that since Llewellyn teaches “centralized management” and “centralized administration,” the reference teaches away or fails to teach what is claimed (Brief 15, middle). We adopt and endorse the Examiner’s findings with respect to the separately argued claims. We refer Appellants to the “Response to Arguments” section of the Answer for further details (Ans. 25 to 31).

For all of the reasons given, Appellants have not demonstrated error regarding the rejection R1. Accordingly, we affirm.

*Arguments with respect to the rejection
of claims 4 to 6 and 8 to 9
under 35 U.S.C. § 103(a) [R2]*

The Examiner rejected the above-noted claims for being obvious over the combination of the Llewellyn and Gavrilu references, pages 23 to 25.

Regarding dependent claims 4 and 5, Appellants argue that the proposed combination would be inoperable (*see* Brief 25, middle) and that Gavrilas's mere disclosure of revocation of membership does not suffice to teach the claimed arrangement. (*See id.* at bottom.) Concerning claim 6, Appellants argue Gavrilas's disclosure of adding a permission-inheritance arc is unrelated to Appellants' removing "the permission of the user and employees of the particular organization in response to addition of the particular organization as a new organization" (claim 6) (App. Br. 27, top).

We carefully considered the Brief, the Answer, the cited portions of the prior art references, and the Examiner's proposed rationale for combining the references. Upon review, we adopt and endorse the Examiner's findings with respect to the combination of Llewellyn and Gavrilas's disclosure. We refer Appellants to the "Response to Arguments" section of the Answer for further details (Ans. 31 to 35). We thus affirm the rejection R2.

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that Appellants have not shown error in the Examiner's rejections R1 and R2 of claims 1 to 19.

DECISION

We affirm the Examiner's rejections R1 and R2 of claims 1 to 19.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

peb

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